

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG

JEREMY JASON CROCK,

Petitioner,

v.

CIVIL ACTION NO. 3:05-0017
CRIMINAL ACTION NO. 3:02-00064

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION

Pursuant to the court's Judgment Order in which the court overruled petitioner's objections to Magistrate Judge James R. Seibert's Report and Recommendation, the court issues its Memorandum Opinion. In his Report and Recommendations, Magistrate Judge Seibert found that petitioner's request for relief was barred in its entirety by the Fourth Circuit's decision in United States v. Morris, 429 F.3d 65 (2005). (See Doc. No. 4 at 3 n.3.) In his objections to these recommendations, petitioner notes that he believes the holding in Morris is erroneous insofar as it states that the holding in United States v. Booker, 543 U.S. 220 (2005), should be applied retroactively to cases filed within one year of the effective date of Booker. (See Doc. No. 5 at 1.)

As petitioner acknowledges, the Morris decision bars the relief sought in this action, and the magistrate judge properly recommended that this action be dismissed. (See Doc. No. 4 at

3.) As such, in the accompanying Judgment Order, the court
(1) confirms and accepts the magistrate judge's recommendations,
(2) denies petitioner's motions under 28 U.S.C. § 2255 to Vacate,
Set Aside, or Correct Sentence by a Person in Federal Custody
(Doc No. 1), and (3) directs the Clerk to remove this matter from
the court's active docket.

The Clerk is directed to forward a copy of this Memorandum
Opinion to the petitioner, pro se, and to all counsel of record.

IT IS SO ORDERED this 11th day of July, 2006.

ENTER:



David A. Faber
United States District Judge